# AMENDED IN ASSEMBLY JUNE 12, 2006 AMENDED IN SENATE MARCH 30, 2005

# SENATE BILL

No. 162

# Introduced by Senator Ortiz Senators Ortiz and Runner (Principal coauthor: Senator Perata)

(Principal coauthors: Assembly Members Nakanishi and Richman)
(Coauthor: Senator Kuehl Coauthors: Senators Alquist, Kuehl, and Torlakson)

(Coauthors: Assembly Members Koretz and Jones Aghazarian, Berg, DeVore, Shirley Horton, Jones, Koretz, Lieber, Nava, Niello, and Sharon Runner)

### February 8, 2005

An act to amend Section 12803 of the Government Code, to amend Sections 20, 21, 21.2, 475, 109277, 109282, 109910, 116275, 121030, and 121090 of, to amend and renumber the heading of Part 1 (commencing with Section 102100) of Division 102 of, to amend and renumber the heading of Part 1 (commencing with Section 104100) of Division 103 of, to amend and renumber the heading of Part 1 (commencing with Section 106500) of Division 104 of, to amend and renumber the heading of Part 1 (commencing with Section 120100) of Division 105 of, and to amend and renumber the heading of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of, to amend and renumber Section 100325 of, to add Sections 100325, 101001, and 113754 to, to add Chapter 1 (commencing with Section 123099) to Part 1 of Division 106 of, to add Part 1 (commencing with Section 102099) to Division 102 of, to add Part 1 (commencing with Section 104099) to Division 103 of, to add Part 1 (commencing with Section 106499) to Division 104 of, to add Part 1 (commencing with Section 120099) to Division 105 of,—and to add Division 112 (commencing with Section 131000) to, to repeal Sections 100115, SB 162 -2-

100117, 100119, 100180, 100182, 100185, 100190, 100195, 100200, 100205, 100210, 100225, 100230, 100235, 100236, 100290, and 100295 of, to repeal Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101 of, to repeal Article 3 (commencing with Section 100400) of Chapter 3 of Part 1 of Division 101 of, to repeal Part 2 (commencing with Section 100925) of Division 101 of, and to repeal and add Sections 100170 and 100175 of, the Health and Safety Code, and to add Section 24000.5 to the Welfare and Institutions Code, relating to public health.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 162, as amended, Ortiz. State Department of Public Health. Existing law establishes the scope of functions and responsibilities of the State Department of Health Services.

This bill would enact the California Public Health Act of 2005, which would, on an unspecified date, establish the State Department of Public Health, to be headed by the State Health Officer to be appointed by the Governor, subject to confirmation by the Senate. The bill would transfer the responsibility for certain programs from the State Department of Health Services to the State Department of Public Health, and would make conforming changes.

This bill would also establish the Public Health Board, consisting of 13 members, for purposes of providing public and expert involvement in the development of policies, regulations, and programs administered by the department or directly affecting the health of Californians.

These provisions of the

The bill would not become operative until January 1, 2007, and only if an appropriation for purposes of the bill is made in the Budget Act of 2006 July 1, 2007.

The bill would also require, contingent upon the receipt of sufficient nonstate resources, the State Department of Health Services or the State Department of Public Health, if it is established pursuant to this bill, to convene a workgroup of experts to develop specific recommendations regarding the creation of the State Department of Public Health and how it fits into a long-term strategy to improve the future of public health leadership in California. The bill would require the workgroup to provide the recommendation and strategy to the Governor and Legislature.

-3-SB 162

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:* 

- SECTION 1. (a) This act shall be known and may be cited as the California Public Health Act of 2005 2006.
- (b) (1) It is the intent of the Legislature, in enacting the act adding this section, to establish the State Department of Public Health.
- (2) It is the intent of the Legislature, in enacting the act adding this section, that both of the following occur:
- (A) All public health programs currently operated through the existing State Department of Health Services be transferred to the State Department of Public Health, without regard to whether or not that public health program has been formally created by statute.
- (B) The Governor makes final decisions about the placement of specific programs and offices that are not formally created by statute or named in this act in a way that is consistent with the intent of the Legislature in establishing the State Department of Public Health and with the overall spirit of this act.
- (c) For purposes of this section, "public health programs" refers primarily to programs and functions that seek to prevent illness and promote health, as compared to programs involving either the direct delivery of health care services or the payment for those services.
- (d) By enacting this act that establishes the State Department of Public Health, it is the intent of the Legislature to do-both all of the following:
- (1) Establish stronger, more focused leadership in public health for California and make the state's role in public health a significantly higher priority.
- (2) Establish a department that has sufficient focus on public 30 health in order to create a more effective public health infrastructure in California, thereby resulting in decreased illness, 32 injury, and death rates, and in greater protection for the state's population in the event of an act of bioterrorism or other major

34 public health emergency.

1

2

3

5

6

9

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

31

SB 162 —4—

1 (1) Elevate the visibility and importance of public health 2 issues in the policy arena.

- (2) Increase accountability and improve program effectiveness for the public health and health care purchasing functions of state government.
- (3) Promote the health status of Californians through programs and policies that use populationwide interventions.
- 8 SEC. 2. Section 12803 of the Government Code is amended 9 to read:
- 10 12803. (a) The California Health and Human Services 11 Agency consists of the following departments: Health Services; 12 Mental Health; Developmental Services; Public Health; Social 13 Services; Alcohol and Drug Abuse; Aging; Rehabilitation; and 14 Community Services and Development.
  - (b) The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities.
  - (c) The Department of Child Support Services is hereby created within the agency commencing January 1, 2000, and shall be the single organizational unit designated as the state's Title IV-D agency with the responsibility for administering the state plan and providing services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations as required by Section 654 of Title 42 of the United States Code. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.
  - SEC. 2.1. Section 20 of the Health and Safety Code is amended to read:
    - 20. (a) "State department" or "department" means State Department of Health Services.
  - (b) For purposes of Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 2.05 (commencing with Section 1339.63), Chapter 2.3 (commencing with Section 1400), Chapter 2.4 (commencing with Section 1417), Chapter 4.1 (commencing with Section 1635), Chapter 5 (commencing with Section 1650), Chapter 8 (commencing with Section 1725), Chapter 8.3 (commencing with Section 1745), Chapter 8.5 (commencing with Section 1760), Chapter 9 (commencing with Section 1760).

\_5\_ SB 162

1 Section 1765.101, and Chapter 11 (commencing with Section

- 2 1794.01) of Division 2, any reference to "state department,"
- 3 "department," or the "State Department of Health Services" 4 shall refer to the State Department of Public Health.
- 5 SEC. 2.2. Section 21 of the Health and Safety Code is 6 amended to read:

7

8

22

23

24

25

26

27

28

29

30

31

32

33

- 21. (a) "Director" means "State Director of Health Services."
- (b) For purposes of Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 2.05
- 10 (commencing with Section 1339.63), Chapter 2.3 (commencing
- 11 with Section 1400), Chapter 2.4 (commencing with Section
- 12 1417), Chapter 4.1 (commencing with Section 1635), Chapter 5
- 13 (commencing with Section 1650), Chapter 8 (commencing with
- 14 Section 1725), Chapter 8.3 (commencing with Section 1743),
- 15 Chapter 8.5 (commencing with Section 1745), Chapter 8.6
- 16 (commencing with Section 1760), Chapter 9 (commencing with
- 17 Section 1765.101, and Chapter 11 (commencing with Section
- 18 1794.01) of Division 2, any reference to "director" shall mean
- 19 the State Health Officer as described in Section 131105.
- 20 SEC. 2.3. Section 21.2 is added to the Health and Safety 21 Code, to read:
  - 21.2. (a) The reorganization of the State Department of Health Services pursuant to Sections 20 and 21 shall be budget neutral and no additional funding shall be appropriated to the State Department of Public Health or to the State Department of Health Services as a result of this reorganization.
  - (b) This act shall be implemented without the additional appropriation of funds. However, the Legislature finds and declares that to implement this act, funding adjustments may be required to align appropriation authority and to provide for anticipated expenditures to the appropriate funding sources.
  - (c) The budget for the State Department of Public Health and the State Department of Health Services shall be proposed and considered in the process for review of the annual Budget Act.
- 35 SEC. 3. Section 475 of the Health and Safety Code is 36 amended to read:
- 37 475. (a) (1) The State Department of Public Health shall 38 establish a permanent Office of Binational Border Health to 39 facilitate cooperation between health officials and health 40 professionals in California and Mexico, to reduce the risk of

SB 162 -6-

3

4

5

disease in the California border region, and in those areas directly affected by border health conditions.

- (2) The department shall administer the office, and shall seek available public or private funding, or both, to support the activities of the office.
- 6 (b) The Office of Binational Border Health shall convene a voluntary community advisory group of representatives of border community-based stakeholders to develop a strategic plan with short-term, intermediate, and long-range goals implementation actions. The advisory group shall include no 10 more than 12 California representatives. The advisory group shall 11 12 include, but not be limited to, members from local government, 13 health plans, community-based organizations, 14 universities, Los Angeles, San Diego, and Imperial County health 15 departments, and a representative from an association of local health officers specializing in border health issues. The office 16 17 shall invite and request appropriate participation from representatives of the Baja California health department and 18 19 other Mexican health departments affected by border health issues. Recommendations resulting from the strategic plan shall 20 21 be developed and shared in consultation with the California 22 appointees to the United States-Mexico Border Health 23 Commission established pursuant to Section 290n of Title 22 of the United States Code, including the Director of Public Health. 24 25 The office shall prepare an annual border health status report, and 26 shall submit it to the Director of Public Health, the Legislature, 27 and the Governor.
- SEC. 4. Section 100115 of the Health and Safety Code is repealed.
- 30 SEC. 5. Section 100117 of the Health and Safety Code is 31 repealed.
- 32 SEC. 6. Section 100119 of the Health and Safety Code is repealed.
- 34 SEC. 7. Section 100170 of the Health and Safety Code is repealed.
- 36 SEC. 8. Section 100170 is added to the Health and Safety 37 Code, to read:
- 38 100170. The department may commence and maintain all 39 proper and necessary actions and proceedings to enforce its 40 regulations. It may defend all actions and proceedings involving

\_7\_ SB 162

1 its powers and duties. In all actions and proceedings it shall sue 2 and be sued under the name of the department.

- 3 SEC. 9. Section 100175 of the Health and Safety Code is 4 repealed.
- 5 SEC. 10. Section 100175 is added to the Health and Safety 6 Code, to read:
- 7 100175. All grants or donations of money received by the 8 state from sources other than the United States, the expenditure of which is administered through or under the direction of the 10 department, shall, on order of the Controller, be deposited in the 11 Special Deposit Fund, subject to Article 2 (commencing with 12 Section 16370) of Chapter 2 of Part 2 of Division 4 of Title 2 of 13 the Government Code. The Controller shall designate, by name, 14 separate accounts within the Special Deposit Fund covering the 15 accountability for each class of grant or donation deposited pursuant to this section; and the department and the Controller 16 17 shall keep a record of the classes and sources of income 18 deposited in, or transferred to, each of the accounts in the Special 19 Deposit Fund, and of the disbursements therefrom.
  - All moneys deposited in the Special Deposit Fund pursuant to this section shall be available, without regard to fiscal years, for expenditure for the purposes for which the money was made available to the state.

20 21

22

- SEC. 11. Section 100180 of the Health and Safety Code is repealed.
- SEC. 12. Section 100182 of the Health and Safety Code is repealed.
- SEC. 13. Section 100185 of the Health and Safety Code is repealed.
- 30 SEC. 14. Section 100190 of the Health and Safety Code is 31 repealed.
- 32 SEC. 15. Section 100195 of the Health and Safety Code is repealed.
- 34 SEC. 16. Section 100200 of the Health and Safety Code is repealed.
- 36 SEC. 17. Section 100205 of the Health and Safety Code is repealed.
- 38 SEC. 18. Section 100210 of the Health and Safety Code is 39 repealed.

-8-**SB 162** 

1 SEC. 19. Section 100225 of the Health and Safety Code is 2 repealed.

- 3 SEC. 20. Section 100230 of the Health and Safety Code is 4 repealed.
- 5 SEC. 21. Section 100235 of the Health and Safety Code is 6 repealed.
- 7 SEC. 22. Section 100236 of the Health and Safety Code is 8 repealed.
- SEC. 23. Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101 of the Health and Safety 10 Code is repealed. 11
- SEC. 24. Section 100290 of the Health and Safety Code is 12 13 repealed.
- 14 SEC. 25. Section 100295 of the Health and Safety Code is 15 repealed.
- 16 SEC. 26. Section 100325 of the Health and Safety Code is 17 amended and renumbered to read:
  - 100326. The department shall cause special investigations of the sources of morbidity and mortality and the effects of localities, employments, conditions and circumstances on the public health and the department shall perform other duties as may be required in procuring information for state and federal agencies regarding the effects of these conditions on the public health.
- 25 SEC. 27. Section 100325 is added to the Health and Safety 26 Code, to read:
- 27 100325. For purposes of this article, "department" means the 28 State Department of Public Health.
- 29 SEC. 28. Article 3 (commencing with Section 100400) of 30 Chapter 3 of Part 1 of Division 101 of the Health and Safety 31 Code is repealed.
- 32 SEC. 29. Part 2 (commencing with Section 100925) of 33 Division 101 of the Health and Safety Code is repealed.
- 34 SEC. 30. Section 101001 is added to the Health and Safety 35 Code, to read:
- 101001. For purposes of this part, "department" or "State 36 37 Department of Health Services" means the State Department of 38
  - Public Health.

18

19

20 21

22

23

24

39 SEC. 31. Part 1 (commencing with Section 102099) is added 40 to Division 102 of the Health and Safety Code, to read:

\_9\_ SB 162

1 2	PART 1. GENERAL PROVISIONS
3	102099. For purposes of this division, "department" or "State
4	Department of Health Services" means the State Department of
5	Public Health.
6	SEC. 32. The heading of Part 1 (commencing with Section
7	102100) of Division 102 of the Health and Safety Code is
8	amended and renumbered to read:
9	
10	PART 1.5. VITAL RECORDS
11	
12	SEC. 33. Part 1 (commencing with Section 104099) is added
13	to Division 103 of the Health and Safety Code, to read:
14	DAREL CENERAL PROMICIONS
15	PART 1. GENERAL PROVISIONS
16	104000 F
17 18	104099. For purposes of this division, "department" or "State
10 19	Department of Health Services" means the State Department of Public Health.
20	SEC. 34. The heading of Part 1 (commencing with Section
21	104100) of Division 103 of the Health and Safety Code is
22	amended and renumbered to read:
23	unchaca and renambered to read.
23 24	PART 1.5. CHRONIC DISEASE
25	
26	SEC. 35. Part 1 (commencing with Section 106499) is added
27	to Division 104 of the Health and Safety Code, to read:
28	•
29	PART 1. GENERAL PROVISIONS
30	
31	106499. For purposes of this division, "department" or "State
32	Department of Health Services" means the State Department of
33	Public Health.
34	SEC. 36. The heading of Part 1 (commencing with Section
35	106500) of Division 104 of the Health and Safety Code is
36	amended and renumbered to read:
37	DADE 1.6 ENVIDONMENTAL HEALTH DEDGONNE
38 39	PART 1.5. ENVIRONMENTAL HEALTH PERSONNEL
リフ	

SB 162 — 10 —

SEC. 37. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

### "BE INFORMED"

"If you are a patient being treated for any form of breast cancer, or prior to performance of a biopsy for breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

- (c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.
- SEC. 38. Section 109282 of the Health and Safety Code is amended to read:
- 109282. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where prostate

-11- SB 162

cancer screening or treatment is performed by any physician and surgeon, or in a reasonably proximate area to where prostate cancer screening or treatment is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

1 2

#### "BE INFORMED"

"If you are a patient being treated for any form of prostate cancer, or prior to performance of a biopsy for prostate cancer, your physician and surgeon is urged to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109280 of the California Health and Safety Code."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

- (c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.
- (d) Subject to future, regular production and replacement schedules from the implementation of the act adding this subdivision, these signs and notices shall include the Internet Web site address of the State Department of Public Health and the Medical Board of California, and a notice regarding the availability of updated prostate cancer summaries on these Web sites.
- SEC. 39. Section 109910 of the Health and Safety Code is amended to read:
- 36 109910. "Department" means the State Department of Public 37 Health.
- 38 SEC. 40. Section 113754 is added to the Health and Safety 39 Code, to read:

SB 162 —12—

1 113754. For purposes of this part, "department" or "State 2 Department of Health Services" means the State Department of Public Health.

- 4 SEC. 41. Section 116275 of the Health and Safety Code is 5 amended to read:
  - 116275. As used in this chapter:
  - (a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- 9 (b) "Department" means the State Department of Public 10 Health.
  - (c) "Primary drinking water standards" means:
  - (1) Maximum levels of contaminants that, in the judgment of the department, may have an adverse effect on the health of persons.
  - (2) Specific treatment techniques adopted by the department in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.
  - (3) The monitoring and reporting requirements as specified in regulations adopted by the department that pertain to maximum contaminant levels.
  - (d) "Secondary drinking water standards" means standards that specify maximum contaminant levels that, in the judgment of the department, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to assure a supply of pure, wholesome, and potable water.
- 35 (e) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, or oral hygiene.
- 37 (f) "Maximum contaminant level" means the maximum 38 permissible level of a contaminant in water.

-13- SB 162

(g) "Person" means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

- (h) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:
- (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system which are used primarily in connection with the system.
- (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.
- (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.
- (i) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
- (j) "Noncommunity water system" means a public water system that is not a community water system.
- (k) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.
- (*l*) "Local health officer" means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.
- (m) "Significant rise in the bacterial count of water" means a rise in the bacterial count of water that the department determines, by regulation, represents an immediate danger to the health of water users.
- (n) "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an

SB 162 —14—

average of 25 individuals daily for more than 60 days out of the year.

- (o) "Transient noncommunity water system" means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.
- (p) "User" means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.
- (q) "Waterworks standards" means regulations adopted by the department that take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.
- (r) "Local primacy agency" means any local health officer that has applied for and received primacy delegation from the department pursuant to Section 116330.
- (s) "Service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:
- (1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.
- (2) The department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.
- (3) The department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.
- (t) "Resident" means a person who physically occupies, whether by ownership, rental, lease or other means, the same dwelling for at least 60 days of the year.

\_\_15\_\_ SB 162

(u) "Water treatment operator" means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.

1 2

- (v) "Water treatment operator-in-training" means a person who has applied for and passed the written examination given by the department but does not yet meet the experience requirements for a specific water treatment operator grade pursuant to Section 106875.
- (w) "Water distribution operator" means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.
- (x) "Water treatment plant" means a group or assemblage of structures, equipment, and processes that treat, blend, or condition the water supply of a public water system for the purpose of meeting primary drinking water standards.
- (y) "Water distribution system" means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.
- (z) "Public health goal" means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.
- SEC. 42. Part 1 (commencing with Section 120099) is added to Division 105 of the Health and Safety Code, to read:

### PART 1. GENERAL PROVISIONS

120099. For purposes of this division, "department" or "State
 Department of Health Services" means the State Department of
 Public Health.

SEC. 43. The heading of Part 1 (commencing with Section 120100) of Division 105 of the Health and Safety Code is amended and renumbered to read:

# PART 1.5. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL

SEC. 44. Section 121030 of the Health and Safety Code is amended to read:

121030. (a) To the extent Chapter 7 (commencing with Section 120975) and Chapter 10 (commencing with Section

SB 162 — 16—

1 121075) apply to records or information that would be covered 2 by this chapter, Chapters 7 and 10 shall supersede this chapter. 3 (b) This chapter supersedes Section 100330 to the extent it

- (b) This chapter supersedes Section 100330 to the extent it applies to records or information covered by Section 100326 or 100330.
- SEC. 45. Section 121090 of the Health and Safety Code is amended to read:
- 121090. Notwithstanding Section 121080, whether or not the research subject, with respect to whom any confidential research record is maintained, gives prior written consent, the content of the confidential research record may be disclosed in any of the following situations:
- (a) To medical personnel to the extent it is necessary to meet a bona fide medical emergency of a research subject.
- (b) To the department to the extent necessary for the conduct of a special investigation pursuant to Section 100326, in which case the confidentiality provisions of Chapter 8 (commencing with Section 121025) shall apply.
- SEC. 46. Chapter 1 (commencing with Section 123099) is added to Part 1 of Division 106 of the Health and Safety Code, to read:

CHAPTER 1. ADMINISTRATION

123099. For purposes of this division, "department" or "State Department of Health Services" means the State Department of Public Health.

SEC. 47. The heading of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code is amended and renumbered to read:

Chapter 1.5. Patient Access to Health Records

SEC. 48. Division 112 (commencing with Section 131000) is added to the Health and Safety Code, to read:

\_17\_ SB 162

1	DIVISION 112. PUBLIC HEALTH
2 3	PART 1. GENERAL PROVISIONS
4 5	Chapter 1. Definitions
6	
7	131000. As used in this division:
8	(a) "Department" means the State Department of Public
9	Health.
10	(b) "Director" means the State Health Officer.
11	` '
12	Chapter 2. General Powers
13	of the State Department of Public Health
14	
15	Article 1. General Provisions
16	
17	131100. There is in the California Health and Human
18	Services Agency the State Department of Public Health.
19	131105. (a) The department is under the control of an
20	executive officer known as the State Health Officer, who shall be
21	appointed by the Governor, subject to confirmation by the
22	Senate, and hold office at the pleasure of the Governor. The State
23	Health Officer shall be known as the director.
24	(b) Upon recommendation of the director, the Governor may
25	appoint a chief deputy of the department who shall hold office at
26	the pleasure of the Governor. The salary of the chief deputy shall
27	be fixed in accordance with law.
28	(c) The director shall be a physician and surgeon licensed in
29	California pursuant to the provisions of Chapter 5 (commencing
30	with Section 2000) of Division 2 of the Business and Professions
31	Code, and who has substantial scientific, medical, public health,
32	leadership, and management experience.
33	131110. (a) The State Department of Public Health succeeds
34	to, and is vested with, the duties, purposes, responsibilities, and
35	jurisdiction exercised by, the State Department of Health
36	Services, as set forth in Sections 11159 to 11162, inclusive, of
37	the Government Code, with respect to all the following
38 39	provisions of law: (1) Part 3 (commencing with Section 475) of Division 1
74	THE PART A COMMENCING WITH SECTION 4/31 OF FIVISION 1

SB 162 —18—

1 (2) Chapter 3 (commencing with Section 100350) of Part 1 of 2 Division 101.

- (3) Chapter 4 (commencing with Section 100600) of Part 1 of Division 101.
  - (4) Part 3 (commencing with Section 101000) of Division 101.
  - (5) Division 102 (commencing with Section 102099).
  - (6) Division 103 (commencing with Section 104099).
- (7) Division 104 (commencing with Section 106499).
  - (8) Division 105 (commencing with Section 120099).
  - (9) Division 106 (commencing with Section 123099).
  - (b) It is the intent of the Legislature that the jurisdiction of the State Department of Public Health also include other programs that are related to public health.
  - 131115. The department shall have possession and control of all records, papers, officers, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of any state agency to the extent that its functions have vested in the department by Section 131110.
  - 131120. The department shall have the same rulemaking authority vested in the State Department of Health Services with respect to those programs transferred from that department.

# Article 2. Regulatory Authorization and Review

- 131200. (a) The department may adopt and enforce regulations for the execution of its duties.
- (b) All regulations heretofore adopted by the department or its predecessors relating to public health or any other function performed by the State Department of Health Services, and in effect immediately preceding the date the act adding this division was enacted, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the State Health Officer or as otherwise provided by Section 25 or other provisions of law.
- 131205. (a) When a dispute arises as to the interpretation or enforcement of regulations of the department that are being enforced by a city, city and county, county, or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the

-19- SB 162

proper interpretation and required enforcement when so requested by a party to the dispute.

- (b) In making its determination, the department may conduct a hearing where all interested parties may present relative comments or arguments.
- (c) Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the parties subject to the regulations of the department, except when the matter may be subject to judicial review.
- 131210. (a) Notwithstanding any other provision of law, the department by regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department.
- (b) The department may by regulation set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

### Article 3. State Laboratories

131250. The department shall maintain a laboratory and branch laboratories as may be necessary to perform the microbiological, physical, and chemical analyses required to meet the responsibilities of the department.

131255. The department may prepare or purchase biological products and distribute them at cost.

#### CHAPTER 3. DIVISION OF RURAL HEALTH

1 2

131300. There is in the department a Division of Rural Health. The division shall administer Chapter 3 (commencing with Section 124550) and Chapter 4 (commencing with Section 124575) of Part 4 of Division 106, Section 101300, and Article 1 (commencing with Section 124600) of Chapter 5 of Part 4 of Division 106.

SB 162 -20-

#### CHAPTER 4. OFFICE OF AIDS

131325. The Legislature finds and declares all of the following:

- (a) The AIDS pandemic continues to devastate California. Over 44,000 Californians have died of AIDS since 1981, and it is estimated that one out of every 200 Californians is infected with HIV, the virus believed to cause AIDS. Education remains the best tool to prevent the ongoing spread of HIV.
- (b) The seroprevalence rate of HIV-infected persons is increasing dramatically in some groups. The incidence rate among women, people of color, at-risk youth, substance abusers, rural residents, and their sexual partners is increasing, as is the rate of infection among gay and bisexual men, especially in urban areas. It is clear that targeted financial resources must be directed to conduct effective HIV education and risk reduction.
- (c) Many AIDS service providers, community-based organizations, and other advocacy groups lack the technical assistance necessary for them to access public and private grant moneys to serve their clients.
- (d) In addition to prevention education efforts, there are additional unmet financial needs in the war against HIV infection and AIDS. These unmet needs include, but are not limited to, care and treatment of those with HIV, expanded medical and social behavioral research, funding for HIV antibody testing at both anonymous and confidential test sites throughout California, housing and financial assistance for those with HIV and their families, and mental health programs for people with HIV and those at risk for contracting AIDS.
- (e) Numerous state agencies and departments conduct HIV-related programs, including the State Department of Health Services, the State Department of Social Services, the Department of Corrections, the State Department of Alcohol and Drug Programs, the State Department of Education, the State Department of Mental Health, the Department of the Youth Authority, and the University of California. Coordination of the various state funded programs will enhance the service delivery of HIV-related programs to Californians in need.
- (f) An evaluation of state prevention and education efforts was conducted by the Institute for Health Policy Studies at the

**—21—** SB 162

University of California, San Francisco and published in March of 1993. This report, entitled "HIV Prevention in California," noted both positive achievements of state-run programs as well as opportunities for improvement. Among the primary recommendations of the study was the need to legislatively identify the Office of AIDS in the state department responsible for public health issues as the lead agency on HIV and AIDS to ensure the goal of state program coordination.

131330. There is in the State Department of Public Health an Office of AIDS. The State Department of Public Health, Office of AIDS, shall be the lead agency within the state responsible for coordinating state programs, services, and activities relating to the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), and AIDS-related conditions (ARC). Among its responsibilities, the State Department of Public Health, Office of AIDS, shall coordinate Sections 120875, Section 120880, Chapter 2 (commencing with Section 120800), Chapter 4 (commencing with Section 120900), Chapter 6 (commencing with Section 120950), Chapter 8 (commencing with Section 121025), Chapter 9 (commencing with Section 121050), Chapter 10 (commencing with Section 121075), Chapter 11 (commencing with Section 121150), Chapter 12 (commencing with Section 121200), Chapter 13 (commencing with Section 121250), and Chapter 14 (commencing with Section 121300), of Part 4 of Division 105. Any reference in those provisions to the State Department of Public Health shall be deemed a reference to the Office of AIDS.

# CHAPTER 5. PUBLIC NUISANCE

29 30 31

32

33

34

35

36

37

38

39

1 2

3

4

5

6

7

8

9

10

11

12

13

14 15

16 17

18

19

20

21

22

23

24 25

26

27

28

131350. (a) The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

- (1) To enforce its regulations.
- (2) To enjoin and abate nuisances dangerous to health.
- (3) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to the public health.
  - (4) To protect and preserve the public health.

SB 162 — 22 —

 (b) The department may defend all actions and proceedings involving its powers and duties. In all actions and proceedings it shall sue and be sued under the name of the department.

131355. The department may abate public nuisances.

131360. The department may advise all local health authorities, and, when in its judgment the public health is menaced, it shall control and regulate their action.

131365. Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

131370. (a) The department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

- (1) Studies.
- (2) Demonstrations of innovative methods.
- (3) Evaluations of existing projects.
- (4) Provision of training programs.
- (5) Dissemination of information.
- (b) In performing an activity specified in subdivision (a), the department may do any of the following:
  - (1) Perform the activity directly.
- (2) Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.
- (3) Apply for and receive grants for the performance of the activity.
  - (4) Award grants for the performance of the activity.

131375. The department may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department, and for the establishment and maintenance of field training centers in local health departments and in the department.

#### Chapter 6. Food and Water Safety

131400. The department shall cause special investigation of

the preparation and sale of drugs and food and their adulteration. 131405. The department shall perform duties as required by law for the detection and prevention of the adulteration of articles

\_\_23\_\_ SB 162

used for food and drink, and for the punishment of persons guilty of violation of any law providing against their adulteration.

131410. The department shall examine and may prevent the pollution of sources of public domestic water and ice supply.

131415. The department shall maintain a program of Drinking Water and Environmental Management.

# 

# Chapter 7. Food and Drug Enforcement

- 131500. The department shall enforce Section 383b of the Penal Code.
- 131505. (a) Any person who willfully sells, keeps for sale, or offers for sale any food, drug, device, or cosmetic knowing, after a written notice from either (1) a manufacturer, wholesaler, distributor, or importer, or (2) the department or a local health officer that the product linked to an outbreak of illness, injury, or product tampering is being ordered removed from sale by the department pursuant to Section 100180, shall, upon conviction, be punished by a fine of not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both a fine and imprisonment.
- (b) If a second or subsequent violation is committed after a previous conviction under this section has become final, the person shall be punished by a fine of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in the state prison, or by both a fine and imprisonment.
- (c) Notwithstanding any other provision of law, the court may suspend the minimum fines provided for in this section if it determines that there are circumstances in mitigation and the court states on the record its reasons for suspending the minimum fine.
- 131510. (a) Whenever any person violates any provision of Section 131505, the court may, as a condition of probation, order the defendant to pay, in lieu of any fine, any expenses, both direct and indirect, incurred by a local health department or the department in monitoring compliance with the order pursuant to Section 131360, including, but not limited to, the costs of conducting inspections and imposing embargoes. The total costs

SB 162 — 24 —

payable to the department and local health departments collectively imposed pursuant to this section shall not exceed the maximum fine for the offense of which the defendant is convicted.

(b) Any amount collected under this section shall be paid to the local health department incurring the expenses or, if to reimburse costs of the department, into the General Fund.

#### Chapter 8. Local Health Department Funding

- 131560. (a) Within 60 days of enactment of the Budget Act, the department shall advance to a local health department 25 percent of the annual General Fund allocation, subvention, or reimbursement required by a local health department for the delivery of services specified in subdivision (b). In determining the dollar amount of the 25 percent allocation, subvention, or reimbursement, the department shall use the local health department's prior year's or the most recently completed fiscal year's allocation.
- (b) Subdivision (a) shall apply to the following health programs and General Fund funding sources:
- (1) Funding for administration for the California Children's Services Program (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106).
- (2) Funding for medical therapy for the California Children's Services Program (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106).
- (3) Funding for administration for the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106).
- (4) Funding for HIV education and prevention services under Section 131330.
- (c) This section shall not apply to a local health department that is three or more quarters in arrears in billing the state for the programs specified in subdivision (b).
- (d) For purposes of this section, "local health department" has the same meaning as that set forth in Section 101185.

\_\_ 25 \_\_ SB 162

# Chapter 9. California Conference of Local Health Officers

131570. (a) There is hereby established a California Conference of Local Health Officers. The department shall consult with the conference in establishing standards as provided in this part and may consult on other matters affecting health. The conference may consult with, advise, and make recommendations to the department, other departments, boards, commissions, and officials of federal, state, and local government, the Legislature, and any other organization or association on matters affecting health. The conference shall consist of all legally appointed local health officers in the state. It shall organize, adopt bylaws, and annually elect officers.

(b) Actual and necessary expenses, including any necessary registration fee, incident to attendance at not more than two meetings per year of the conference shall be a legal charge against the local governmental unit. Actual and necessary expenses incident to attendance at special meetings of the committees of the conference called by the director shall be a legal charge against any funds available for administration of this part, Section 131585, Chapter 3 (commencing with Section 101175) of Part 3, and Part 3 (commencing with Section 124300) of Division 106.

131575. The department shall administer this chapter, Section 131585, Chapter 3 (commencing with Section 101175) of Part 3 of Division 101, and Part 3 (commencing with Section 124300) of Division 106 and shall adopt necessary regulations. These regulations shall be adopted only after consultation with and approval by the California Conference of Local Health Officers. Approval of these regulations shall be by majority vote of those present at an official session.

131580. Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall

SB 162 -26-

make a public finding summarizing the reasons for acting contrary to these recommendations.

131585. The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances, and expenditures that shall be reported to the director in a manner and at times as the director may specify.

131590. Nothing in this chapter, Section 131585, Chapter 3 (commencing with Section 101175) of Part 3 of Division 101, and Part 3 (commencing with Section 124300) of Division 106 or in any regulation prescribed by the department in accordance herewith shall compel any practitioner who treats the sick by prayer in the practice of the religion of any well-recognized church, sect, denomination, or organization or any persons covered by Sections 2731 and 2800 of the Business and Professions Code to give any information about a disease or disability that is not infectious, contagious, or communicable or authorize any compulsory education, medical examination, or medical treatment.

CHAPTER 10. Public Health Board

131600. (a) There is in state government the Public Health Board that shall provide public and expert involvement in the development of policies, regulations, and programs administered by the department or directly affecting the health of Californians. The board shall consist of 13 voting members, as follows:

- (1) A dean of a California school of public health, appointed by the Governor.
- (2) A dean of a California school of nursing, appointed by the Governor.
- (3) A dean of a California school of medicine, appointed by the Governor.
  - (4) A public laboratory director, appointed by the Governor.
- (5) Two public members of national stature with broad experience and professional expertise in public health, one each

\_\_ 27 \_\_ SB 162

1 appointed by the Speaker of the Assembly and the Senate 2 Committee on Rules.

- (6) Two members from community-based organizations with an interest and mission of promoting public health, one each appointed by the Speaker of the Assembly and the Senate Committee on Rules.
  - (7) The State Health Officer.

- (8) The physician leader of the state's medical emergency response system.
- (9) The President of the California Conference of Local Health Officers.
- (10) The health officer of a large metropolis, appointed by the President of the California Conference of Local Health Officers.
- (11) A rural health officer, appointed by the President of the California Conference of Local Health Officers.
- (b) The State Health Officer shall be the chairperson of the board.
- 131605. A board member's term of office shall be four years. Any vacancies that occur during an unexpired term shall be filled for the unexpired term by a member appointed by the same appointing power that made the initial appointment.
- 131610. The board shall meet at least four times a year or more frequently upon call of the chairperson. A majority of the members present shall constitute a quorum.
- 131615. Members shall serve on a voluntary basis and shall not receive any compensation for the performance of their duties.
- 131620. The board shall be provided independent professional staff through the reassignment of existing resources.
- 131625. Members shall have a fiduciary duty to represent the public interest and protect the public's health. The board shall do all of the following:
- (a) Through public meetings, provide oversight of public health programs and regulations to improve effectiveness, examine ways to better use existing resources, analyze cost-effective alternatives for improving the health and safety of Californians, and comment on regulations that will affect the public health.
- (b) Encourage the participation of related government agencies, such as the health professions boards and the National Guard, as well as foundations and professional associations,

**— 28 — SB 162** 

7

8

10

11 12

13

14

15

16 17

18

19

21

22

23

24 25

26

27

28

29

30

31

32

33 34

35

36

37

38

39

including the County Health Executives Association, the Public

- 2 Hospital Association, the California Medical Association, the
- 3 California Health Care Association, the Western Occupational
- 4 and Environmental Medical Association, the California
- 5 Conference of Local Health Department Nursing Directors, and 6 the public health associations.
  - (c) Systematically assess the opportunities to consolidate or coordinate the work of other state health-related advisory boards, such as the Health Policy and Data Advisory Committee of the Office of Statewide Health Planning and Development.
  - (d) Encourage the development of effective partnerships to tap the expertise of California's universities, academic medical centers, community clinics, foundations, private medicine, and the National Guard.
  - (e) Explore strategic relationships with biotechnology and other high technology sectors.
  - (f) Report at least annually to the Governor and Legislature on the priorities for government actions to improve the public health and on ways resources could be used more effectively.
- 20 Section 24000.5 is added to the Welfare and SEC. 49. Institutions Code, to read:
  - 24000.5. Notwithstanding subdivision (b) of Section 24001, for purposes of this division, "department" means the State Department of Public Health.
  - SEC. 50. The State Department of Health Services, or the State Department of Public Health if it has been established pursuant to this act, shall convene a workgroup of experts who shall develop specific recommendations on the creation of the State Department of Public Health and how that department fits into a long-term strategy to improve the future of public health leadership in California. The workgroup shall provide its recommendations and strategy to the Governor and Legislature six months after the convening of the workgroup. This section shall only be implemented upon the receipt by the State Department of Health Services of sufficient nonstate resources to cover all costs, including the costs of staff resources and of implementing this section. The establishment of the State

Department of Public Health is not contingent upon the

**— 29 — SB 162** 

SEC. 51. Sections 2 to 49, inclusive, of this act shall become operative on January 1, 2007, and only if an appropriation for the purposes of this act is made in the Budget Act of 2006.

1

2

4

SEC. 50. Sections 2 to 49, inclusive, of this act shall become operative on July 1, 2007. 5